

EXHIBIT B

Case Docket Entries

Court:	Circuit	County:	51 - Webster	Case Number:	CC-51-2019-C-7
Judge:	Jack Alsop	Created Date:	3/21/2019	Status:	Open
Case Type:	Civil	Case Sub-Type:	Tort	Security Level:	Public
Style:	Charlotte Mathes v. Webster County Memorial Hospital, Incorporated				

	<u>Created Date</u>	<u>Event</u>	<u>Ref. Code</u>	<u>Description</u>
1	3/21/2019 6:31 PM	E-Filed		Complaint; cc to WV Sec. of State for service upon Defendant
	1-1 3/21/2019	Case Information Sheet		
	1-2 3/21/2019	Complaint - Complaint		
	1-3 3/21/2019	Transmittal		
	1-4 3/21/2019	Summons		
2	3/21/2019 6:31 PM	Judge Assigned	J-51001	Jack Alsop
3	3/21/2019 6:31 PM	Party Added	P-001	Charlotte Mathes
4	3/21/2019 6:31 PM	Party Added	D-001	Webster County Memorial Hospital, Incorporated
5	3/21/2019 6:31 PM	Attorney Listed	P-001	A-9880 - Erika Kolenich
6	3/21/2019 6:31 PM	Service Requested	D-001	Secretary of State - Certified
7	4/1/2019 11:23 AM	E-Filed		Service Return - Return on Webster County Memorial Hospital Incorporated
	7-1 4/1/2019	Service Return - Return on Webster County Memorial Hospital Incorporated		
	7-2 4/1/2019	Transmittal		
8	4/1/2019 1:05 PM	Scanned Document		2019-04-01 - Other - WV Sec of State Invoice Summary/Payment Method for summons WCMH
	8-1 4/1/2019	Other - WV Sec of State Invoice Sumary/Payment Method for summons WCMH		

E-FILED | 3/21/2019 6:31 PM
 CC-51-2019-C-7
 Webster County Circuit Clerk
 Jeanie Moore

COVER SHEET**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF WEBSTER COUNTY WEST VIRGINIA
Charlotte Mathes v. Webster County Memorial Hospital, Incorporated

First Plaintiff: ☐ Business ☒ Individual ☐ Government ☐ Other
First Defendant: ☒ Business ☐ Individual ☐ Government ☐ Other
Judge: Jack Alsop

COMPLAINT INFORMATION

Case Type: Civil **Complaint Type:** Tort

Origin: ☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested: ☒ Yes ☐ No **Case will be ready for trial by:** 9/1/2020

Mediation Requested: ☒ Yes ☐ No

Substantial Hardship Requested: ☐ Yes ☒ No

☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
☐ Interpreter or other auxiliary aid for the hearing impaired
☐ Reader or other auxiliary aid for the visually impaired
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Other: _____

☐ I am proceeding without an attorney

☒ I have an attorney: Erika Kolenich, 85 W. Main St., Buckhannon, WV 26201

SERVED PARTIES

Name: Webster County Memorial Hospital, Incorporated
Address: c/o Jim Parker P.O. Box 312, Webster Springs WV 26288
Days to Answer: 30 **Type of Service:** Secretary of State - Certified

Request for Legal Process to be Served by the West Virginia Secretary of State

Please serve the named defendant Webster County Memorial Hospital, Incorporated
in the attached matter according to the provision of applicable law.

- ☐ §21A-5-17c Service on non-resident employer & others liable for unemployment comensation payments
- ☐ §29-19-14 Service on professional fund raising counsel, nonresident charitable organizations or professional solicitors soliciting contributions from people in this State
- ☒ §31D-5-504 & §56-3-13 Service on authorized domestic corporation
- ☐ §31D-15-1510 Service on unauthorized foreign corporation
- ☐ §31B-1-111 & §31B-9-906 Service on authorized domestic or foreign limited liability company
- ☐ §33-4-12 Service on licensed insurer
- ☐ §33-4-13 & §33-2-22 Service on unlicensed or unauthorized foreign insurer
- ☐ §38-1A-7 & §38-1A-8 Service on non-resident trustee of a security trust
- ☐ §46A-2-137 Service on certain nonresidents under WV Consumer Credit and Protection Act
- ☐ §47-9-4 Service on authorized domestic or foreign limited partnership formed under §47-9, or limited liability partnership (LLP) formed under §47B-10 (see also §56-3-13a, §47B-9-6)
- ☐ §47-9-4 Service on unauthorized foreign limited partnership or LLP
- ☐ §56-3-31 Service on nonresident motor vehicle operator involved in an accident in this state, or on his/her insurer
- ☐ §56-3-31 Service on individual under the long-arm statute because the individual is:
- ☐ (1) Transacting business in this state
 - ☐ (2) Contacting to supply services or things in this state
 - ☐ (3) Causing tortious injury in this state by act or omission (see §56-3-33(4) for description of causing tortious injury)
 - ☐ (4) Non-support of minor children (pusuant to Lozinski v. Lozinski)
 - ☐ (5) Causing injury in this state by breach of warranty
 - ☐ (6) Having interest in, using or possessing real property in this state
 - ☐ (7) Contracting to insure person, property or risk located in WV at the time of contracting
- ☐ §38-5A-5 Service of suggestee execution as provided for in §38-5A

SUMMONS

E-FILED | 3/21/2019 6:31 PM
CC-51-2019-C-7
Webster County Circuit Clerk
Jeanie Moore

IN THE CIRCUIT OF WEBSTER WEST VIRGINIA
Charlotte Mathes v. Webster County Memorial Hospital, Incorporated

Service Type: Secretary of State - Certified

NOTICE TO: Webster County Memorial Hospital, Incorporated, c/o Jim Parker, P.O. Box 312, Webster Springs, WV 26288
THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Erika Kolenich, 85 W. Main St., Buckhannon, WV 26201

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

3/21/2019 6:31:11 PM

Date

/s/ Jeanie Moore

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ Not Found in Bailiwick

Date

Server's Signature

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

E-FILED | 4/1/2019 11:23 AM
CC-51-2019-C-7
Webster County Circuit Clerk
Jeanie Moore



Mac Warner

Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

Jeanie Moore
Webster Co. Courthouse
2 Court Square, Rm. G-4
Webster Sprgs., WV 26288-1095

Control Number: 236432

Defendant: WEBSTER COUNTY MEMORIAL
HOSPITAL INCORPORATED
PO BOX 312
WEBSTER SPRINGS, WV 26288 US

Agent: JIM PARKER

County: Webster

Civil Action: 19-C-7

Certified Number: 92148901125134100002493728

Service Date: 3/27/2019

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

SUMMONS

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Jeanie Moore

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RECEIVED FOR
CLERK OF PROCESS
2019 MAR 27 A 10:20
STATE OF WEST VIRGINIA



West Virginia E-Filing Notice

CC-51-2019-C-7

Judge: Jack Alsop

To: Webster County Memorial Hospital, Incorporated
c/o Jim Parker
P.O. Box 312
Webster Springs, WV 26288

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF WEBSTER COUNTY, WEST VIRGINIA

Charlotte Mathes v. Webster County Memorial Hospital, Incorporated
CC-51-2019-C-7

The following complaint was FILED on 3/21/2019 6:31:11 PM

Notice Date: 3/21/2019 6:31:11 PM

Jeanie Moore
CLERK OF THE CIRCUIT
Webster
2 Court Square, Room G-4
WEBSTER SPRINGS, WV 26288

(304) 847-2421
jeanie.moore@courtswv.gov

E-FILED | 3/21/2019 6:31 PM
CC-51-2019-C-7
Webster County Circuit Clerk
Jeanie Moore

Request for Legal Process to be Served by the West Virginia Secretary of State

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- ☒ §31D-5-504 & §56-3-13 Service on authorized domestic corporation
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- ☐ §46A-2-137 Service on certain nonresidents under WV Consumer Credit and Protection Act
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- ☐ §38-5A-5 Service of suggestee execution as provided for in §38-5A

SUMMONS

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CC-51-2019-057
Webster County Circuit Clerk
Jeanie Moore

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Charlotte Mathes v. Webster County Memorial Hospital, Incorporated

Service Type: Secretary of State - Certified

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MAILED PROCESS
2019 MAR 27 A 10:20
CLERK OF COURT
WEBSTER COUNTY
WEST VIRGINIA

COVER SHEET

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Webster County Circuit Clerk
Jeanie Moore

GENERAL INFORMATION

IN THE CIRCUIT COURT OF WEBSTER COUNTY WEST VIRGINIA
Charlotte Mathes v. Webster County Memorial Hospital, Incorporated

First Plaintiff:

☐ Business ☒ Individual
☐ Government ☐ Other

First Defendant:

☒ Business ☐ Individual
☐ Government ☐ Other

Judge:

Jack Alsop

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Tort

Origin:

☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested:

☒ Yes ☐ No

Case will be ready for trial by: 9/1/2020

Mediation Requested:

☒ Yes ☐ No

Substantial Hardship Requested: ☐ Yes ☒ No

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☒ I have an attorney: Erika Kolenich, 85 W. Main St., Buckhannon, WV 26201

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Address: c/o Jim Parker P.O. Box 312, Webster Springs WV 26288
Days to Answer: 30 **Type of Service:** Secretary of State - Certified

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CC-51-2019-C-7
Webster County Circuit Clerk
Jeanie Moore

IN THE CIRCUIT COURT OF WEBSTER COUNTY, WEST VIRGINIA

CHARLOTTE L. MATHES,
Plaintiff,

v.

CIVIL ACTION NO.: 19-C- ____

**WEBSTER COUNTY MEMORIAL
HOSPITAL, INCORPORATED**

Defendant.

COMPLAINT

NOW COMES the Plaintiff, Charlotte L. Mathes, for her cause of action against the Defendant, states and alleges as follows, to-wit:

PREFACE

1. Plaintiff, Charlotte L. Mathes, (hereinafter referred to as "Plaintiff" or "Plaintiff Mathes") is an adult individual and resident of Cowen, Webster County, West Virginia.
2. Defendant, Webster County Memorial Hospital, Incorporated, (hereinafter referred to as "Defendant Webster County Memorial Hospital") is a domestic corporation, licensed and authorized to do business in the State of West Virginia and does actively and systematically conduct, contract and transact business in West Virginia; further, Defendant Webster County Memorial Hospital has a principal office address of 324 Miller Mt. Dr., Webster Springs, WV 26288, and a Notice of Process contact as Jim Parker, P.O. Box 312, Webster Springs, WV 26288.
3. Plaintiff Mathes was hired by Defendant Webster County Memorial Hospital on or about June 22, 2015, as a Secretary I/Medical Secretary.

4. At all times relevant herein, Plaintiff Mathes performed all of her job duties in a satisfactory and/or above satisfactory manner and any contention to the contrary is merely a pretext.
5. On or about July of 2017, Defendant moved Plaintiff's office with the registration personnel.
6. On or about March 21, 2018, Plaintiff filed for leave pursuant to the Family Medical Leave Act (hereinafter referred to as "FMLA").
7. Plaintiff was off work on FMLA from on or about March 21, 2018 to on or about March 25, 2018.
8. After the filing of Plaintiff's FMLA claim, Plaintiff began experiencing disparate treatment as Defendant began issuing Plaintiff verbal disciplines for things that she had not been disciplined for before she filed for FMLA. Based on information and belief, said disciplinary actions lacked merit, and was an act of retaliation for Plaintiff's filing of an FMLA claim.
9. Upon her return to work, on or about March 26, 2018, Plaintiff was addressed by Defendant and informed that she would need to sign a document indicating her new job title of Registration/Scheduling/Referral Clerk. Plaintiff was further informed that if she did not sign the same, she would be terminated.
10. On or about March 30, 2018, Plaintiff was called into a meeting with Jim Parker, Imajean Rhodes, Tina Riffle, Sheila Brown and Michelle Holcomb to address issue of black roses the hospital received. They accused Plaintiff of buying and sending the flowers to the hospital. Plaintiff explained that she did not buy the flowers and only delivered them to

the intended recipients since the flower delivery person left the flowers with Plaintiff. Mr. Parker called Plaintiff a "liar" and threatened Plaintiff with termination.

11. On or about April 1, 2018, Mr. Parker asked Plaintiff whether she had been scheduling Dr. Mace patients. When Plaintiff responded in the affirmative, Mr. Parker began yelling at Plaintiff, pointed to a note on the wall and informed her that per the note she was not to be scheduling appointments for him. Plaintiff was never informed of said note, nor was she ever advised not to schedule appointments for Dr. Mace.
12. On or about June 26, 2018, Plaintiff was forced to put in a transfer request for a Scheduler/Registration Clerk position. Mr. Parker informed Plaintiff that she had to do registration or she would be fired. Plaintiff then filed the transfer request as she was told.
13. On or about June 26, 2018, Defendant issued Plaintiff a meritless Employee Disciplinary Action for alleged improper job performance, alleging that Plaintiff refused to do the new job she was asked to do. Plaintiff never declined to do the job but merely questioned the added responsibilities and stated to Defendants that she preferred not take the new position. Despite not wanting to take the position, Plaintiff signed the transfer form as directed.
14. On or about June 28, 2018, Defendants verbally reprimanded Plaintiff alleging Plaintiff made a scheduling mishap that caused Defendant to lose a patient. Defendant accused Plaintiff of telling a patient that Dr. Mace could not see the Patient. This reprimand was without merit because Plaintiff did in fact make this patient an appointment with Dr. Mace. Defendants also wrongfully accused Plaintiff of telling people that the hospital was a "sinking ship".

15. On or about June 29, 2018, Plaintiff was off work on an approved sick day to medical appointments. On this day Imajean Rhodes called Plaintiff and asked her to come into the office to discuss a scheduling incident before 4:00 p.m. Plaintiff stated she was on a sick day to attend a medical appointments and thus was not in town and could not come in. Later that day, Defendants called Plaintiff to see why she did not come into the office. Plaintiff again explained she was out for medical appointments and wasn't in town, just as she explained to Imajean Rhodes. Defendant then moved the meeting to July 2, 2018.
16. On or about July 2, 2018, Plaintiff called Defendant and indicated she was sick, would be seeing Dr. Mace and would bring in an excuse. During her appointment on or about July 2, 2018, Plaintiff's doctor recommended she file for FMLA beginning on July 2, 2018 to January 2, 2019. Therefore, on or about July 2, 2018, Plaintiff filed for FMLA and delivered the same to Defendant.
17. Thereafter, on July 2, 2018, Defendant wrongfully, recklessly, carelessly, willfully, wantonly and unlawfully terminated Plaintiff without cause in an extreme and outrageous manner. On that day Defendant Michelle Holcomb issued Plaintiff a termination letter via United States Certified Mail.
18. On the morning of July 7, 2018, Plaintiff signed for said termination letter and it was not until the morning of July 7, 2018, that Plaintiff was informed of her termination.

**COUNT I- RETALIATION AND DISCRIMINATION IN VIOLATION OF THE
FAMILY MEDICAL LEAVE ACT**

19. Plaintiff Mathes hereby realleges each and every allegation contained in Paragraphs One (1) through Eighteen (18) as if fully restated herein.
20. Defendant Webster County Memorial Hospital began retaliating against Plaintiff Mathes after she returned from FMLA leave on or about March 26, 2018.

21. Defendant Webster County Memorial Hospital unreasonably terminated Plaintiff Mathes after she filed a second application for leave granted under the Family Medical Leave Act on or about July 2, 2018.
22. Defendant Webster County Memorial Hospital terminated Plaintiff Mathes' employment without business justification and in a discriminatory manner, and as a direct and proximate result of Plaintiff Mathes taking medical leave under the Family Medical Leave Act, which unlawfully interfered with, restrained, and/or denied Plaintiff Mathes the exercise of her FMLA rights.
23. As a direct and proximate result of the acts of Defendant Webster County Memorial Hospital as herein alleged Plaintiff Mathes was caused to suffer damages and losses as hereinafter set forth.

COUNT IV – RETALIATORY DISCHARGE IN VIOLATION OF PUBLIC POLICY

24. Plaintiff Mathes hereby realleges each and every allegation contained in Paragraphs One (1) through Twenty-Three (23) as if fully restated herein.
25. Based upon information and belief, Defendant wrongfully terminated Plaintiff Mathes because she lawfully utilized an earned benefit, namely FMLA benefits, in violation of West Virginia public policy.
26. Plaintiff did not commit any separate dischargeable offense.
27. West Virginia has a public policy of protecting workers from being retaliated against for utilizing benefits rightfully earned through their employment.
28. As a direct and proximate cause of the Defendant's wrongful termination, Plaintiff suffered injuries, damages and losses as hereinafter set forth.

COUNT III – TORT OF OUTRAGE

29. Plaintiff hereby re-alleges each and every allegation contained in paragraphs One (1) through Twenty-Eight (28) as if fully restated herein.
30. The discriminatory and retaliatory acts and/or omissions taken against Plaintiff Mathes by Defendant Webster County Memorial Hospital, were done in a severe and outrageous manner and were so extreme as to be intolerable in a civilized society.
31. Defendant acted intentionally and recklessly which caused Plaintiff Mathes extreme emotional distress.
32. Defendant knew that said intentional and reckless actions would cause Plaintiff Mathes to suffer extreme emotional distress.
33. As a direct and proximate result of the outrageous and wrongful actions aforesaid, Plaintiff has suffered injuries, damages and losses as hereinafter set forth.


DAMAGES

34. Plaintiff hereby restates each and every allegation contained in paragraphs one (1) through Thirty-Three (33) of this Complaint as if fully rewritten herein.
35. As a direct and proximate result of the acts and/or omissions of Defendants as hereinbefore alleged, Plaintiff has been caused to suffer injuries, damages and losses, including but not limited to: loss wages and benefits both past and future, emotional distress, anxiety, fear, embarrassment, humiliation, financial hardship, and attorney fees.
36. All of the acts of Defendants and its agents, servants, and employees, as alleged in each count of this Complaint were willful, wanton, and malicious and/or reckless and/or in reckless disregard for the civil rights of Plaintiff Charlotte L. Mathes such that punitive damages are warranted.

WHEREFORE, Plaintiffs, Charlotte L. Mathes, demands judgment against the Defendant Webster County Memorial Hospital, Incorporated in an amount that would adequately compensate Plaintiff for the unlawful acts and/or omissions and violations of law by Defendant, plus whatever other relief the Court or Jury would deem just; and for punitive damages in an amount adequate to punish and deter Defendant from committing this type of conduct in the State of West Virginia in the future and in such amounts as will satisfy all other reasons of law and public policy for an award of punitive damages; and Plaintiff further prays for an award of attorney fees, costs, interest, and for such other relief as the Court or jury deems just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Charlotte L. Mathes,
By Counsel,

A handwritten signature in black ink, appearing to be 'EK', is written over a horizontal line.

Erika Klie Kolenich, Esq. (9880)
Klie Law Offices, PLLC
85 W. Main St.
Buckhannon, WV 26201
(304) 472-5007
Facsimile: 304-472-1126
ehklic@klielawoffices.com

IN THE CIRCUIT COURT OF WEBSTER COUNTY, WEST VIRGINIA

CHARLOTTE L. MATHES,
Plaintiff,

v.

CIVIL ACTION NO.: 19-C- ____

WEBSTER COUNTY MEMORIAL
HOSPITAL, INCORPORATED, and
MICHELLE HOLCOMB
Defendants.

VERIFICATION

STATE OF WEST VIRGINIA;
COUNTY OF Webster; TO-WIT:

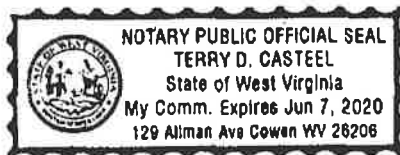
I, **Charlotte L. Mathes**, named in the foregoing "COMPLAINT," after being first duly sworn, do hereby swear that the facts and allegations therein contained are true, except insofar as they are therein stated to be upon information and belief, I believe them to be true.

Charlotte L. Mathes
Charlotte L. Mathes

Taken, subscribed, and sworn to before
me, a Notary Public, by **Charlotte L. Mathes**
on this the 26th day of February, 2019.

Terry D. Casteel
Notary Public

My Commission expires on: June 7, 2020



Mac Warner
Secretary of State
 Bldg. 1, Suite 157-K
 1900 Kanawha Blvd. East
 Charleston, WV 25305-0770
 Phone: 304-558-6000
 Toll-free: 866-767-8683



Invoice

Date: 03/27/2019
 Invoice #: 488923

Bill to:
 CIRCUIT COURT OF WEBSTER COUNTY
 2 COURT SQUARE, ROOM G-4
 WEBSTER SPRINGS, WV 26288

Reference #: 19-C-7
 Defendant name: WEBSTER COUNTY
 MEMORIAL HOSPITAL INCORPORATED
 County: WEBSTER COUNTY

Reference: 19-C-7

Invoice summary

Service	Service #	Qty	Unit Cost	Subtotal	Description
Service - US defendant	15	1	\$20.00	\$20.00	Filing fee for case #19-C-7
Remaining balance (pay this amount):				\$20.00	

Payment methods

Payment is due at time of service.

Accepted payment methods are check, credit card, or Intergovernmental Transfer (IGT).

Intergovernmental transfer

State agencies using IGT: please follow the WVOASIS allocation instructions below for each billed item:

Make sure to specify INVOICE ID #488923.

Service Id	OASIS Account # Fund Dept Unit Rev Function	Invoice Id	Amount
15	0155-1600-1003-5592-5712	488923	\$10.00
	1612-1600-1003-6696-5712	488923	\$10.00

SUMMONS

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3/21/2019 6:31:11 PM

Date

/s/ Jeanie Moore

Clerk

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STATE OF WEST VIRGINIA

IN THE CIRCUIT COURT OF WEBSTER COUNTY, WEST VIRGINIA

CHARLOTTE L. MATHES,
Plaintiff,

v.

CIVIL ACTION NO.: 19-C- ____

**WEBSTER COUNTY MEMORIAL
HOSPITAL, INCORPORATED**

Defendant.

COMPLAINT

NOW COMES the Plaintiff, Charlotte L. Mathes, for her cause of action against the Defendant, states and alleges as follows, to-wit:

PREFACE

1. Plaintiff, Charlotte L. Mathes, (hereinafter referred to as "Plaintiff" or "Plaintiff Mathes") is an adult individual and resident of Cowen, Webster County, West Virginia.
2. Defendant, Webster County Memorial Hospital, Incorporated, (hereinafter referred to as "Defendant Webster County Memorial Hospital") is a domestic corporation, licensed and authorized to do business in the State of West Virginia and does actively and systematically conduct, contract and transact business in West Virginia; further, Defendant Webster County Memorial Hospital has a principal office address of 324 Miller Mt. Dr., Webster Springs, WV 26288, and a Notice of Process contact as Jim Parker, P.O. Box 312, Webster Springs, WV 26288.
3. Plaintiff Mathes was hired by Defendant Webster County Memorial Hospital on or about June 22, 2015, as a Secretary I/Medical Secretary.

4. At all times relevant herein, Plaintiff Mathes performed all of her job duties in a satisfactory and/or above satisfactory manner and any contention to the contrary is merely a pretext.
5. On or about July of 2017, Defendant moved Plaintiff's office with the registration personnel.
6. On or about March 21, 2018, Plaintiff filed for leave pursuant to the Family Medical Leave Act (hereinafter referred to as "FMLA").
7. Plaintiff was off work on FMLA from on or about March 21, 2018 to on or about March 25, 2018.
8. After the filing of Plaintiff's FMLA claim, Plaintiff began experiencing disparate treatment as Defendant began issuing Plaintiff verbal disciplines for things that she had not been disciplined for before she filed for FMLA. Based on information and belief, said disciplinary actions lacked merit, and was an act of retaliation for Plaintiff's filing of an FMLA claim.
9. Upon her return to work, on or about March 26, 2018, Plaintiff was addressed by Defendant and informed that she would need to sign a document indicating her new job title of Registration/Scheduling/Referral Clerk. Plaintiff was further informed that if she did not sign the same, she would be terminated.
10. On or about March 30, 2018, Plaintiff was called into a meeting with Jim Parker, Imajean Rhodes, Tina Riffle, Sheila Brown and Michelle Holcomb to address issue of black roses the hospital received. They accused Plaintiff of buying and sending the flowers to the hospital. Plaintiff explained that she did not buy the flowers and only delivered them to

the intended recipients since the flower delivery person left the flowers with Plaintiff. Mr. Parker called Plaintiff a “liar” and threatened Plaintiff with termination.

11. On or about April 1, 2018, Mr. Parker asked Plaintiff whether she had been scheduling Dr. Mace patients. When Plaintiff responded in the affirmative, Mr. Parker began yelling at Plaintiff, pointed to a note on the wall and informed her that per the note she was not to be scheduling appointments for him. Plaintiff was never informed of said note, nor was she ever advised not to schedule appointments for Dr. Mace.
12. On or about June 26, 2018, Plaintiff was forced to put in a transfer request for a Scheduler/Registration Clerk position. Mr. Parker informed Plaintiff that she had to do registration or she would be fired. Plaintiff then filed the transfer request as she was told.
13. On or about June 26, 2018, Defendant issued Plaintiff a meritless Employee Disciplinary Action for alleged improper job performance, alleging that Plaintiff refused to do the new job she was asked to do. Plaintiff never declined to do the job but merely questioned the added responsibilities and stated to Defendants that she preferred not take the new position. Despite not wanting to take the position, Plaintiff signed the transfer form as directed.
14. On or about June 28, 2018, Defendants verbally reprimanded Plaintiff alleging Plaintiff made a scheduling mishap that caused Defendant to lose a patient. Defendant accused Plaintiff of telling a patient that Dr. Mace could not see the Patient. This reprimand was without merit because Plaintiff did in fact make this patient an appointment with Dr. Mace. Defendants also wrongfully accused Plaintiff of telling people that the hospital was a “sinking ship”.

15. On or about June 29, 2018, Plaintiff was off work on an approved sick day to medical appointments. On this day Imajean Rhodes called Plaintiff and asked her to come into the office to discuss a scheduling incident before 4:00 p.m. Plaintiff stated she was on a sick day to attend a medical appointments and thus was not in town and could not come in. Later that day, Defendants called Plaintiff to see why she did not come into the office. Plaintiff again explained she was out for medical appointments and wasn't in town, just as she explained to Imajean Rhodes. Defendant then moved the meeting to July 2, 2018.
16. On or about July 2, 2018, Plaintiff called Defendant and indicated she was sick, would be seeing Dr. Mace and would bring in an excuse. During her appointment on or about July 2, 2018, Plaintiff's doctor recommended she file for FMLA beginning on July 2, 2018 to January 2, 2019. Therefore, on or about July 2, 2018, Plaintiff filed for FMLA and delivered the same to Defendant.
17. Thereafter, on July 2, 2018, Defendant wrongfully, recklessly, carelessly, willfully, wantonly and unlawfully terminated Plaintiff without cause in an extreme and outrageous manner. On that day Defendant Michelle Holcomb issued Plaintiff a termination letter via United States Certified Mail.
18. On the morning of July 7, 2018, Plaintiff signed for said termination letter and it was not until the morning of July 7, 2018, that Plaintiff was informed of her termination.

**COUNT I- RETALIATION AND DISCRIMINATION IN VIOLATION OF THE
FAMILY MEDICAL LEAVE ACT**

19. Plaintiff Mathes hereby realleges each and every allegation contained in Paragraphs One (1) through Eighteen (18) as if fully restated herein.
20. Defendant Webster County Memorial Hospital began retaliating against Plaintiff Mathes after she returned from FMLA leave on or about March 26, 2018.

21. Defendant Webster County Memorial Hospital unreasonably terminated Plaintiff Mathes after she filed a second application for leave granted under the Family Medical Leave Act on or about July 2, 2018.
22. Defendant Webster County Memorial Hospital terminated Plaintiff Mathes' employment without business justification and in a discriminatory manner, and as a direct and proximate result of Plaintiff Mathes taking medical leave under the Family Medical Leave Act, which unlawfully interfered with, restrained, and/or denied Plaintiff Mathes the exercise of her FMLA rights.
23. As a direct and proximate result of the acts of Defendant Webster County Memorial Hospital as herein alleged Plaintiff Mathes was caused to suffer damages and losses as hereinafter set forth.

COUNT IV – RETALIATORY DISCHARGE IN VIOLATION OF PUBLIC POLICY

24. Plaintiff Mathes hereby realleges each and every allegation contained in Paragraphs One (1) through Twenty-Three (23) as if fully restated herein.
25. Based upon information and belief, Defendant wrongfully terminated Plaintiff Mathes because she lawfully utilized an earned benefit, namely FMLA benefits, in violation of West Virginia public policy.
26. Plaintiff did not commit any separate dischargeable offense.
27. West Virginia has a public policy of protecting workers from being retaliated against for utilizing benefits rightfully earned through their employment.
28. As a direct and proximate cause of the Defendant's wrongful termination, Plaintiff suffered injuries, damages and losses as hereinafter set forth.

COUNT III – TORT OF OUTRAGE

29. Plaintiff hereby re-alleges each and every allegation contained in paragraphs One (1) through Twenty-Eight (28) as if fully restated herein.
30. The discriminatory and retaliatory acts and/or omissions taken against Plaintiff Mathes by Defendant Webster County Memorial Hospital, were done in a severe and outrageous manner and were so extreme as to be intolerable in a civilized society.
31. Defendant acted intentionally and recklessly which caused Plaintiff Mathes extreme emotional distress.
32. Defendant knew that said intentional and reckless actions would cause Plaintiff Mathes to suffer extreme emotional distress.
33. As a direct and proximate result of the outrageous and wrongful actions aforesaid, Plaintiff has suffered injuries, damages and losses as hereinafter set forth.


DAMAGES

34. Plaintiff hereby restates each and every allegation contained in paragraphs one (1) through Thirty-Three (33) of this Complaint as if fully rewritten herein.
35. As a direct and proximate result of the acts and/or omissions of Defendants as hereinbefore alleged, Plaintiff has been caused to suffer injuries, damages and losses, including but not limited to: loss wages and benefits both past and future, emotional distress, anxiety, fear, embarrassment, humiliation, financial hardship, and attorney fees.
36. All of the acts of Defendants and its agents, servants, and employees, as alleged in each count of this Complaint were willful, wanton, and malicious and/or reckless and/or in reckless disregard for the civil rights of Plaintiff Charlotte L. Mathes such that punitive damages are warranted.

WHEREFORE, Plaintiffs, Charlotte L. Mathes, demands judgment against the Defendant Webster County Memorial Hospital, Incorporated in an amount that would adequately compensate Plaintiff for the unlawful acts and/or omissions and violations of law by Defendant, plus whatever other relief the Court or Jury would deem just; and for punitive damages in an amount adequate to punish and deter Defendant from committing this type of conduct in the State of West Virginia in the future and in such amounts as will satisfy all other reasons of law and public policy for an award of punitive damages; and Plaintiff further prays for an award of attorney fees, costs, interest, and for such other relief as the Court or jury deems just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Charlotte L. Mathes,
By Counsel,

A handwritten signature in black ink, appearing to be 'EK', written over a horizontal line.

Erika Klie Kolenich, Esq. (9880)
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Buckhannon, WV 26201
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IN THE CIRCUIT COURT OF WEBSTER COUNTY, WEST VIRGINIA

CHARLOTTE L. MATHES,
Plaintiff,

v.

CIVIL ACTION NO.: 19-C- _____

WEBSTER COUNTY MEMORIAL
HOSPITAL, INCORPORATED, and
MICHELLE HOLCOMB
Defendants.


VERIFICATION

STATE OF WEST VIRGINIA;
COUNTY OF Webster; TO-WIT:

I, **Charlotte L. Mathes**, named in the foregoing "COMPLAINT," after being first duly sworn, do hereby swear that the facts and allegations therein contained are true, except insofar as they are therein stated to be upon information and belief, I believe them to be true.


Charlotte L. Mathes

Taken, subscribed, and sworn to before
me, a Notary Public, by **Charlotte L. Mathes**
on this the 26th day of February, 2019.


Notary Public

My Commission expires on: June 7, 2020

